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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2013-579*

13 **MARY RACHEL WAALK, aka MARY**
14 **REIDEL, aka MARY SCHWAB, aka**
15 **MARY VOISIN**
1090 Meadowlark Drive
Fairfield CA 94533

A C C U S A T I O N

16 **Registered Nurse License No. 666610**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about September 28, 2005, the Board of Registered Nursing issued Registered
24 Nurse License Number 666610 to Mary Rachel Waalk, aka Mary Reidel, aka Mary Schwab, aka
25 Mary Voisin (Respondent). The Registered Nurse License was in full force and effect at all times
26 relevant to the charges brought in this Accusation and will expire on February 28, 2013, unless
27 renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

...

1 "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any
2 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this
3 section."

4 **COST RECOVERY**

5 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **DRUGS**

10 9. "Hydromorphone" (trade name "Dilaudid") is an opiod analgesic used to relieve
11 moderate to severe pain. It is a Schedule II controlled substance pursuant to Health and Safety
12 Code section 11055, subdivision (b)(1)(J) and a dangerous drug pursuant to Business and
13 Professions Code section 4022.

14 10. "Zofram" (trade name "Ondansetron") is used to prevent nausea and vomiting caused
15 by cancer chemotherapy, radiation therapy, and surgery. It is a dangerous drug pursuant to
16 Business and Professions Code section 4022.

17 11. "Pyxis" is a computerized management, storage, and medication dispensing
18 system/machine. It is a medication cart/unit containing all medications used throughout a
19 hospital. Each Pyxis is linked to the main computer maintained by the Hospital's Pharmacy
20 Department where all Pyxis information is stored. Medical staff is given access to the Pyxis via
21 an assigned password selected by each medical employee.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Grossly Incorrect and/or Grossly Inconsistent Entries in Patient Records)

24 12. Respondent has subjected her license to disciplinary action under section 2761,
25 subdivision (a) on the grounds of unprofessional conduct, as defined in section 2762, subdivision
26 (e), in that on or between April 26, 2009, and July 24, 2009, while employed as a registered nurse
27 in the emergency room at Queen of the Valley Medical Center, in Napa, California, Respondent
28

made grossly incorrect, or grossly inconsistent entries in hospital and patient records pertaining to a controlled substance and/or dangerous drug in the following respects:

A. Patient A¹

1. On April 26, 2009, at 3:31 a.m., Respondent withdrew from Pyxis 2 mg Dilaudid, 1 ML injectable, for patient A, when there was no physician's order for Dilaudid for this patient. Respondent charted in the Medication Administration Record (MAR) "order changed" at 3:50 a.m. Respondent failed to chart the administration or otherwise account for the wastage of 2 mg of Dilaudid.

B. Patient B

1. On April 28, 2009, at 7:50 p.m., Respondent withdrew from Pyxis 2 mg Dilaudid, 1 ML injectable, for patient B, when there was no physician's order for Dilaudid for this patient. Respondent documented the wastage of 2 mg of Dilaudid at 7:50 p.m. Respondent documented the administration of .5 mg of Dilaudid to patient B at 7:59 p.m. Respondent undid the documentation related to the administration of .5 mg of Dilaudid to patient B at 8:44 p.m. Respondent documented that no Dilaudid was administered to patient B at 8:45 p.m.

2. On April 28, 2009, at 7:54 p.m., Respondent withdrew from Pyxis 2 mg Dilaudid, 1 ML injectable, for patient B, when there was no physician's order for Dilaudid for this patient. Respondent documented on the Pyxis report, the wastage of 1.5 mg of Dilaudid. Respondent documented the wastage of .5 mg of Dilaudid approximately 35 minutes later. Respondent documented the administration of 1 mg of Dilaudid to patient B on the Situation, Background, Assessment Record, under the log-in name of a different nurse.

C. Patient C

1. On July 24, 2009, at 8:00 p.m., Respondent withdrew from Pyxis two 4 mg tablets of Ondansetron for patient C, when there was no physician's order for Ondansetron for this patient. Respondent documented the administration of one 4 mg tablet of Ondansetron to patient C at 8:00 p.m. Respondent handed an aluminum packet containing two 4 mg tablets of

¹ The patient names will be released to Respondent pursuant to a request for discovery.

1 Ondansetron to an emergency room registration technician to give to another registration
2 technician who was experiencing nausea and vomiting.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct - Gross Negligence)

5 13. Respondent has subjected her license to disciplinary action under section 2761,
6 subdivision (a)(1) on the grounds of gross negligence based on the acts and/or omissions set forth
7 in paragraph 12, above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Unprofessional Conduct - Incompetence)

10 14. Respondent has subjected her license to disciplinary action under section 2761,
11 subdivision (a)(1) on the grounds of incompetence based on the acts and/or omissions set forth in
12 paragraph 12, above.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct – Illegally Possessin Dangerous Drugs)

15 15. Respondent has subjected her license to disciplinary action under section 2761,
16 subdivision (a)(1), as defined by section 2762, subdivision (a), in that she illegally obtained and
17 possessed controlled substances and/or dangerous drugs on four separate occasions, without a
18 physician's order, as described in paragraph 12, above.

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PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 666610, issued to Mary Rachel Waalk, aka Mary Reidel, aka Mary Schwab, aka Mary Vorsin;

2. Ordering Mary Rachel Waalk, aka Mary Reidel, aka Mary Schwab, aka Mary Vorsin, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: JANUARY 19, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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